

*ORIGINAL*

LAURIE ORTOLANO

VS

CITY OF NASHUA

Docket No. 1:22-cv-00326-LM

RAYMOND FEOLI

April 10, 2024



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<p>9</p> <p>1 A. We don't host data for any other</p> <p>2 customers.</p> <p>3 Q. You don't? Okay.</p> <p>4 A. No.</p> <p>5 Q. And does your company have the ability to</p> <p>6 store incoming calls?</p> <p>7 A. No.</p> <p>8 Q. Okay. And are you aware -- I saw that, as</p> <p>9 part of your production, you have something called</p> <p>10 the official board policy on corporate information</p> <p>11 security. Is that to comply with any law in</p> <p>12 New Hampshire?</p> <p>13 A. No. It's more a general guideline for us.</p> <p>14 And we're a small company. But we need to protect</p> <p>15 our customers' data as best we can. Otherwise we</p> <p>16 probably wouldn't have customers, because they are</p> <p>17 entrusting us with their information. So we use it</p> <p>18 to sort of, you know, breed our culture of</p> <p>19 protecting our customers' data.</p> <p>20 Q. Okay. I understand. And I was almost</p> <p>21 going to interrupt you in the middle of that answer,</p> <p>22 but that's something I forgot to tell you. Please</p> <p>23 wait for me to finish a question.</p>	<p>11</p> <p>1 just say you are not sure. That's perfectly fine.</p> <p>2 A. Yeah. It's about that time frame, right</p> <p>3 before COVID.</p> <p>4 Q. Okay. And who was it that contacted you</p> <p>5 out of Nashua?</p> <p>6 A. Bruce Codagnone or -- I can't pronounce</p> <p>7 his name. My apologies.</p> <p>8 Q. Okay. No worries. Tina had asked me</p> <p>9 about that because I believe it's spelled two</p> <p>10 different ways within your documents.</p> <p>11 A. Yes.</p> <p>12 Q. So I guess we'll have to get some</p> <p>13 clarification from somebody who knows at some point,</p> <p>14 but -- because I saw Cogagone (phonetic) and also</p> <p>15 Codagone (phonetic), I think. So --</p> <p>16 A. Yeah.</p> <p>17 Q. -- anyways. And at some point, did your</p> <p>18 primary point of contact with Nashua switch?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And to whom did it switch?</p> <p>21 A. Kimberly Kleiner.</p> <p>22 Q. Okay. And what sort of information did</p> <p>23 you provide Ms. Kleiner?</p>
<p>10</p> <p>1 A. Oh, okay.</p> <p>2 Q. And I will wait for you to finish an</p> <p>3 answer. That makes it a whole lot easier on Tina,</p> <p>4 our stenographer today.</p> <p>5 A. My apologies.</p> <p>6 Q. No worries. I think I did it first.</p> <p>7 So are you aware of the New Hampshire data</p> <p>8 privacy protection law?</p> <p>9 A. Yeah. Yes.</p> <p>10 Q. Okay. And do you know whether or not your</p> <p>11 board policy complies with that?</p> <p>12 A. I believe it does.</p> <p>13 Q. Okay. Have you had any lawyers check that</p> <p>14 out at all?</p> <p>15 A. No.</p> <p>16 Q. Okay. And switching gears -- just to let</p> <p>17 you know, as I go through this, I will give you a</p> <p>18 little bit of a warning so that you know that we're</p> <p>19 now onto a different topic -- when did Nashua first</p> <p>20 contact you regarding their scanning and storage</p> <p>21 needs?</p> <p>22 A. I believe it was in the summer of 2019.</p> <p>23 Q. Okay. And if you are not sure, please</p>	<p>12</p> <p>1 A. There wasn't a lot to provide, because she</p> <p>2 was involved in the process already. But she wasn't</p> <p>3 my main point of contact until that time that Bruce</p> <p>4 left.</p> <p>5 Q. Okay. So did Mr. Codagnone -- let's just</p> <p>6 call him Bruce. Did Bruce perform the same kind of,</p> <p>7 I guess, services or -- in relationship to your</p> <p>8 contact with him, as Ms. Kleiner did?</p> <p>9 A. I will say yes. I mean, it's kind of a</p> <p>10 hard question. I am not sure what you are asking.</p> <p>11 Could you maybe be a little more specific?</p> <p>12 Q. I will rephrase.</p> <p>13 A. Thank you.</p> <p>14 Q. So when you contacted either Bruce or</p> <p>15 Ms. Kleiner, what was their role in responding? In</p> <p>16 other words, what communications did you have with</p> <p>17 them?</p> <p>18 A. Typically, just pickups and drop-off</p> <p>19 scheduling.</p> <p>20 Q. Okay. So they would have another batch of</p> <p>21 documents, and you would then be called to come and</p> <p>22 get them and scan and store them?</p> <p>23 A. Correct.</p>



<p style="text-align: right;">13</p> <p>1 Q. Okay. And switching again now, when did</p> <p>2 you first hear from Laurie Ortolano?</p> <p>3 A. I believe it was -- gosh, I am trying to</p> <p>4 remember the date. But anyway, I heard from her, I</p> <p>5 think it was, in January. And she had left me a</p> <p>6 voicemail, and I called her back.</p> <p>7 Q. Okay. And just to be specific, January of</p> <p>8 which year?</p> <p>9 A. Gosh, I am sorry. I don't recall the</p> <p>10 exact year. I -- I think it was last year.</p> <p>11 Q. Okay. To refresh, would it make sense</p> <p>12 that it might be 2022?</p> <p>13 A. Let me look.</p> <p>14 Q. Go take your time.</p> <p>15 A. Yes, it was 2022. My apologies.</p> <p>16 Q. No worries.</p> <p>17 To the extent that you can recall, do you</p> <p>18 remember what she said to you in that first</p> <p>19 voicemail message that you got from her?</p> <p>20 A. She just said she's "Laurie Ortolano from</p> <p>21 Nashua. And I am calling in regards to the PO</p> <p>22 number that, you know, was issued." And I believe</p> <p>23 that was it.</p>	<p style="text-align: right;">15</p> <p>1 bringing up what Mr. Feoli has referred to as</p> <p>2 the "PO"? It should be one of the exhibits,</p> <p>3 please.</p> <p>4 (R. Feoli Deposition Exhibit No. 1 was</p> <p>5 marked for identification and shared via Zoom.)</p> <p>6 Q. (By Mr. Olson) I am just going to scroll.</p> <p>7 Do you recognize this document, Mr. Feoli?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. And what is this?</p> <p>10 A. This is a PO from the City of Nashua to</p> <p>11 Inception Technologies.</p> <p>12 Q. Okay. And you said that this was the PO</p> <p>13 that Ms. Ortolano referenced during the phone call</p> <p>14 with you; correct?</p> <p>15 A. I don't recall exactly. But based on</p> <p>16 timing and everything, yes, because I don't think</p> <p>17 there was any other PO at that time.</p> <p>18 Q. Okay. So if you would look up in the</p> <p>19 upper left-hand corner next to the City of Nashua</p> <p>20 seal, do you see the date there?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And am I correct in stating that</p> <p>23 it's 9/15 -- September 15, 2020?</p>
<p style="text-align: right;">14</p> <p>1 Q. Okay. And when did you conclude that she</p> <p>2 was a representative or agent of the City?</p> <p>3 A. Basically, during the conversation with</p> <p>4 her, I -- well, let me -- no. Because I called her</p> <p>5 back. So I assumed that, based on the fact that she</p> <p>6 was calling me from Nashua, that she was my</p> <p>7 customer. Because I have never had somebody call me</p> <p>8 that is, essentially, a customer of my customer.</p> <p>9 It's just never happened before. So my assumption</p> <p>10 was she was with the City at that point, I guess.</p> <p>11 Q. Okay. Did she say anything in the</p> <p>12 voicemail that would indicate that she was an agent</p> <p>13 or employee of Nashua?</p> <p>14 A. I don't recall that, no.</p> <p>15 Q. Okay. And when you called her back, can</p> <p>16 you recall the substance of that first conversation</p> <p>17 with her?</p> <p>18 A. Yeah. She was asking a lot about the PO</p> <p>19 and the amounts and, you know, so what was, you</p> <p>20 know, outstanding on it, et cetera. I gave her all</p> <p>21 the information. So that was pretty much it. I</p> <p>22 mean, you know...</p> <p>23 MR. OLSON: Okay. Tina, would you mind</p>	<p style="text-align: right;">16</p> <p>1 A. That would be -- yes.</p> <p>2 Q. Okay. And at that time, was that the only</p> <p>3 PO that was issued by the City of Nashua?</p> <p>4 A. To my knowledge, yes.</p> <p>5 Q. Okay. And I am just trying to clarify</p> <p>6 because the conversation that you had with</p> <p>7 Ms. Ortolano you said was in January of 2022. So</p> <p>8 did --</p> <p>9 A. Yeah. This project wasn't a quick</p> <p>10 project. Scanning process takes time.</p> <p>11 Q. Okay.</p> <p>12 MR. OLSON: All right. Thank you. You</p> <p>13 can unshare that one, Tina. I appreciate it.</p> <p>14 Q. (By Mr. Olson) So other than the talk</p> <p>15 about the PO, was there anything else that</p> <p>16 Ms. Ortolano said during that first phone</p> <p>17 conversation that you recall?</p> <p>18 A. I had mentioned to her that -- because she</p> <p>19 was asking about amounts due and so forth. And I</p> <p>20 had mentioned to her that I agreed with what she had</p> <p>21 said was the stated balance; however, we had an</p> <p>22 invoice that was sort of in the process of being</p> <p>23 generated. And at that time, she said, "Well, I</p>

<p style="text-align: right;">33</p> <p>1 Q. Thank you.</p> <p>2 A. -- "believed her to be a City official</p> <p>3 based on her intimate knowledge of the City's</p> <p>4 business, the terms of Inception's contract, and the</p> <p>5 status of PO, billing and payments, as well as her</p> <p>6 statements."</p> <p>7 Q. Do you recall if that's what you told the</p> <p>8 detective at the time?</p> <p>9 A. I don't recall exactly, no.</p> <p>10 Q. Okay. I believe, in answer to an earlier</p> <p>11 question, you didn't mention all of those things.</p> <p>12 But we can look at the detective's report in a</p> <p>13 minute.</p> <p>14 A. Sure.</p> <p>15 Q. And skip ahead to No. 12. Tell me when</p> <p>16 you are ready, Ray, please.</p> <p>17 A. Yeah. (Perusing document.) Okay.</p> <p>18 (Perusing document.) Okay.</p> <p>19 (Perusing document.) Okay.</p> <p>20 Q. So in the middle of, actually, that begins</p> <p>21 with "Thinking Ms. Ortolano," would you read that.</p> <p>22 A. "Thinking Ms. Ortolano was a City</p> <p>23 official, I promptly returned the call."</p>	<p style="text-align: right;">35</p> <p>1 don't have access to those files. When can we get</p> <p>2 those files back?" I did not provide Ms. Ortolano</p> <p>3 access to the scanned documents."</p> <p>4 Q. Thank you.</p> <p>5 So I don't believe that you mentioned the</p> <p>6 quoted language here when you described that second</p> <p>7 phone call. Do you recall that?</p> <p>8 A. I am not sure what you are referring to.</p> <p>9 Q. So where you have in quotes down at the</p> <p>10 line -- first line from the bottom --</p> <p>11 A. Yeah.</p> <p>12 Q. -- "We don't have access to those files.</p> <p>13 When can we get those files back."</p> <p>14 As you sit here today, do you recall her</p> <p>15 saying that or asking those questions?</p> <p>16 A. Yeah. That -- she was concerned about</p> <p>17 documents that were being requested. And she made</p> <p>18 comment that, while we have those files in our --</p> <p>19 Inception's possession, that she didn't have access</p> <p>20 to those files.</p> <p>21 And I said to her that, you know, "You do.</p> <p>22 Because when we scan them and upload them into</p> <p>23 DocuWare, you can search and retrieve those files."</p>
<p style="text-align: right;">34</p> <p>1 Q. Okay. And just to clarify, when you</p> <p>2 received that voicemail message, was there anything</p> <p>3 in it that led you to believe that Ms. Ortolano was</p> <p>4 a City employee?</p> <p>5 A. Just like I said, she -- I have never had</p> <p>6 this situation come up where I have had a client of</p> <p>7 a customer call me looking for information. She</p> <p>8 mentioned Nashua. She mentioned the PO. I just</p> <p>9 concluded she was with the City.</p> <p>10 Q. Okay. So you are really sort of</p> <p>11 reinforcing your previous answer that, because it</p> <p>12 was so rare or maybe had never happened before, that</p> <p>13 you were assuming that she was a City employee;</p> <p>14 correct?</p> <p>15 A. In 28 years, it's never happened.</p> <p>16 Q. Okay. And if you go down to the bottom of</p> <p>17 your answer, beginning with "On or about February 4,</p> <p>18 2022," please read that.</p> <p>19 A. (As read) "On or about February 4, 2022,</p> <p>20 Ms. Ortolano called me again and left a voicemail.</p> <p>21 Once again, I promptly returned the call.</p> <p>22 Ms. Ortolano questioned me about public access to</p> <p>23 the documents, at one point stating/inquiring: "We</p>	<p style="text-align: right;">36</p> <p>1 And that's, again, under the thought that she was</p> <p>2 with the company [sic]. And I mentioned that she</p> <p>3 could, you know, have Kim provide her log-in</p> <p>4 credentials to get access to those files if she were</p> <p>5 a City employee. She didn't say she wasn't. And</p> <p>6 she let it go, and that was it.</p> <p>7 Q. Okay. And the last line in your answer</p> <p>8 here where you say "I did not provide Ms. Ortolano</p> <p>9 access to the scanned documents," did she ever ask</p> <p>10 you for the scanned documents?</p> <p>11 A. She wanted to know when they could have</p> <p>12 access to them. She didn't specifically say</p> <p>13 "scanned documents." I said to her that, you know,</p> <p>14 "You could have access to those scanned documents if</p> <p>15 you got log-in credentials from Kim."</p> <p>16 As a company, we don't give out log-in</p> <p>17 credentials from -- we pick a point of contact</p> <p>18 within the organization who tells us, "Yes, this</p> <p>19 person can have access to those files." So I kind</p> <p>20 of was referring to the fact that, if she wanted to</p> <p>21 get access to those scanned documents, as an</p> <p>22 employee of the City, she could have requested</p> <p>23 log-in credentials.</p>